

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

Debtors.¹

INFORMATIVE MOTION REGARDING THE STATUS OF HOUSE BILL 1003

To the Honorable United States District Judge Laura Taylor Swain:

Governor Pedro R. Pierluisi and the Puerto Rico Fiscal Agency and Financial Advisory Authority, (“AAFAF,” and collectively with the Governor, the “Government”), through undersigned counsel, hereby state as follows:²

1. Since Governor Pierluisi took office, he has demonstrated his commitment to fiscal responsibility and has worked tirelessly with the Oversight Board to achieve the restructuring of Puerto Rico’s debt in a sustainable and humane manner. In doing so, he has also been steadfast in

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474), (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747), and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523 (LTS)) (Last Four Digits of Federal Tax ID: 3801).

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Plan.

his commitment to protecting pensioners as a matter of principle—a principle that is based upon the fact that monthly pension cuts are neither necessary nor required as a matter of fundamental fairness. The Government would like to applaud the Oversight Board for eliminating the Plan’s proposed monthly pension cuts once and for all. This decision has brought the Board and Government one large step closer to achieving a confirmable plan that is in the best interest of the people of Puerto Rico.

2. The Government also supports the Plan’s economic terms, which contemplate significant bondholder concessions and a reduction in the Commonwealth’s outstanding debt by 80%, eliminating more than \$25 billion in debt. This will enable Puerto Rico to regain access to the capital markets and, in turn, rebuild, invest, and prosper economically for years to come.

3. The Government strongly believes that we should not allow the opportunity to achieve this historic debt restructuring slip through our hands. For this reason, the Government continues to play an indispensable role in pursuing confirmation, while at the same time preserving its rights to object to the Plan if enabling legislation is not enacted and pensioners are not adequately protected.

4. As explained in further detail below, the Government has worked around the clock to secure the legislation necessary to implement the Plan. Despite these efforts, the fate of the legislation remains unclear. For the Court’s convenience, the Government files this informative motion in advance of the scheduled status conference to (i) summarize the procedural history of House Bill 1003; (ii) outline the current status of such legislation up to tonight’s agreement by government parties on certain amendments; and (iii) clarify certain misconceptions about the scope of such legislation, including the impact on the freeze of defined benefit plans for Puerto Rico’s teachers and judges.

5. While the legislative process unfolds, the Government believes that filing its objection to the Plan or to the proposed Confirmation Order would be detrimental to the overall Plan process, and thus has requested an extension to such deadlines.³

OVERVIEW OF HOUSE BILL 1003 AND ITS CURRENT STATUS

6. On September 30, 2021, Puerto Rico's House of Representatives voted to approve House Bill 1003, authorizing the issuance of the new GO Bonds and contingent value instruments contemplated by the Plan. The Bill underwent a number of amendments on the House floor, including the addition of language expressly conditioning the legislation on the Board removing any cut to the pensions of retired government employees.

7. The Bill then moved to the Senate, where on October 6, 2021 the Senate approved an amended version of House Bill 1003, which conditioned the legislation on zero pension cuts and certain other priority matters established in the legislation. The priority matters included, among other items, the following:

- Fixed allocation of \$500 million for the University of Puerto Rico for a period of five years;
- Creation of the University Scholarship Trust Fund;
- Allocation of additional funds for municipalities; and
- Creation of the Strategic Investment Fund for Economic Development to invest \$300 million over five years.

8. In light of the inconsistencies between the versions approved by the House and Senate, a conference committee was convened to reconcile the differences. During this time, the Oversight Board was critical of the Senate version due to the incremental cost of the new priority measures.

³ See AAFAF's Urgent Motion to Extend its Objection Deadlines with Respect to the Seventh Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al. Filed By the Oversight Board [ECF No. 18665].

9. However, on October 14, 2021, the Oversight Board informed the Governor and legislative leaders that it will agree to strike pension cuts from the Plan and make certain other concessions. The concessions address a number of the provisions in the Senate version of the legislation, including increased funding for the University of Puerto Rico and the Island's municipal governments and other economic development initiatives.

10. On Sunday October 17, 2021, the Board and Government leaders met in person to consider revisions to House Bill 1003. On October 20, 2021, following extensive good faith discussions on a revised bill, the House approved the legislation with substantial bipartisan support. The legislation, however, was not brought to a vote in the Senate that evening, as had been anticipated, due to a lack of votes needed for passage.

11. On October 21, 2021, the Senate President José Luis Dalmau announced that the legislation did not have enough votes in the upper chamber and he called upon the House to consider reopening a conference committee to negotiate an amended version of House Bill 1003.

12. Tonight, government parties have agreed on various amendments to be included in the legislation. If these amendments are incorporated into House Bill 1003, the Government is confident the majority of both the House of Representative and Senate will vote to approve the measure as ultimately adopted.

13. The Puerto Rico Senate is currently in recess until Tuesday, October 26, 2021.

14. In light of the likely amendments, it is critical to underscore that the proposed freeze of the defined benefit plans for Puerto Rico's teachers and judges remains outside the purview of House Bill 1003. The bill does not propose to implement the freeze in any way. Instead, the Oversight Board is seeking to implement the defined benefit freeze under the terms of the Plan. Whether it can legally do so will be an issue decided by this Court.

15. But for now, the Oversight Board should defer to the legislative process and allow that process to conclude before making any abrupt decisions about alternative paths. Although the Board has advised the Legislature that it is not willing to accept any change or modification to the Bill, the Board should allow the Legislature to express its will. Once the final legislation is enacted and presented to the Oversight Board, the Board can determine how to proceed, and advise the Court of its intentions.

CONCLUSION

16. The Government fervently believes that now is the time to end the Commonwealth's Title III case without additional delay. However, in the interim, the legislative process must be respected and all parties should refrain from drawing arbitrary lines in the sand and work together to pave the way for legislation that timely authorizes the issuance of the new GO Bonds and CVIs, while allowing for the confirmation process to expeditiously move forward and the legal arguments on the pension freeze to be presented to the Court.

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Dated: October 24, 2020
San Juan, Puerto Rico

Respectfully submitted,

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